

REMARKS

Reconsideration of the present application as amended is requested.

Applicants appreciate the indication of allowance of claims 8, 12, 14-18, 22 and 23. Claim 29 was objected to as being a substantial duplicate of allowed claim 22. Consequently, Applicants have cancelled claim 29.

Claims 26-28 and 30 are rejected on new grounds, but still using U.S. Patent No. 5,997,552 to Person as the primary reference. The rejection contends essentially that Person shows the invention claimed in new independent claims 26 and 27, except for the removable cartridge which is allegedly supplied by Woods and the prevention of retrograde movement which is allegedly supplied by DiGiovanni.

However, Person not only fails to disclose both the removable cartridge and retrograde movement prevention, the reference also fails to disclose the track assembly removably mounted to the advancement gun with the wafer cartridge coupled to the track assembly, as recited in both independent claims. (This feature is depicted, for instance, in FIGS. 7 and 16 of the present application). Person in Col 6, line 63 to Col 7, line 2 describes that the body portion 14 is mounted to the handle assembly 12 by engagement between projections 111 and slots 113, 115. However, as acknowledged in the Office Action, Person does not disclose a cartridge carrying a plurality of wafers (see, p. 4 of the Office Action). Since Person does not disclose a wafer cartridge it clearly cannot disclose a track assembly removably mounted to an advancement gun with a wafer cartridge coupled to the track assembly. Furthermore, Person

discloses a series of fasteners 31 that are apparently pre-loaded into the track 73 of the body portion (col. 5, ll. 22-30) since the flexible staple-like structure of the fasteners do not lend themselves to stacking in a separate cartridge.

Since Person lacks the claimed cartridge the Woods reference was added as teaching a cartridge connected to an advancement gun. However, the ligature containers 80 in Woods are slid into a channel 86 that is "rigidly attached" to the barrel 16 of the instrument 10. Col. 4, ll. 22-27; Figs. 3-4. Thus, whether or not Woods discloses a "cartridge" as claimed, it certainly does not disclose a cartridge coupled to a track assembly that is removably mounted to an advancement gun, as required by Applicants' claims 26-27. As can be seen in Fig. 1 of Woods, the ligature containers 80 are lined up immediately adjacent the working end of the instrument. Since the Woods instrument is intended for castration of bull calves, there is no need for a lengthy track assembly along which the ligatures must be conveyed. Consequently, there is no reason to mount the ligature containers on a track assembly that is then mounted to the rest of the castration instrument 10.

The Di Giovanni reference was cited for the retrograde movement feature and fails to disclose the structure missing from Woods and Person. Even if Woods is combined with Person, the combination still fails to disclose every limitation recited in claims 26 and 27. Thus, the combination of Woods and Person, with or without Di Giovanni, fails to establish a prima facie case for obviousness of claims 26 and 27, or dependent claims 28-30.

It is further noted that claim 26 and claim 28, which depends from claim 27, recite a pair of locking cams disposed on the cartridge and a pair of latching surfaces on the advancement gun to engage the locking cams. It was suggested that the protruding edges 82 of the containers 80 constitute the claimed "locking cams" and the channel 86 constitutes the claimed "latching surfaces". However, it can be seen in FIG. 5 of Woods that no such locking cam or latching surface exists in the Woods device. The protruding edges 82 must freely slide within the channel 86 for the actual securing mechanism of the Woods device to work. As shown in FIG. 5, the containers 80 are secured by a spring biased ball 96 that is biased to protrude into an indentation 84 in the edges 82. See, col. 4, ll. 22-49. If the protruding edges 82 of Woods were configured as a locking cam, as required by Applicants' claims, the container 80 would not be able to slide within the channel 86 and the spring biased ball 96 would be unnecessary.

Moreover, Woods contemplates sliding multiple containers into the channel with each container held in place by a corresponding spring-biased ball. See, FIG. 5. If the edges 82 of any container were configured as a locking cam, as required by Applicants' claims, only one container could be installed since the first inserted container would be lodged within the channel, preventing further travel and the insertion of additional containers. Since Woods does not disclose the locking cams and latching surfaces recited in claims 26 and 28, it cannot render these claims obvious.

Claims 8, 12, 14-18, 22 and 23 have already been allowed. Claim 29 has been cancelled. Applicants have traversed the obviousness rejection of the remaining claims 26-28 and 30 on the grounds that the proposed combination of references fails to disclose all of the structure recited in those claims. It is therefore believed that the present application is in condition for allowance and action toward that end is earnestly requested.

Respectfully submitted,

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